

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227
(LJV)

March 5, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF J.D.
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY

BY: JOSEPH M. TRIPI, ESQ.

NICHOLAS T. COOPER, ESQ.

CASEY L. CHALBECK, ESQ.

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Federal Centre

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Buffalo, New York 14202

And

UNITED STATES DEPARTMENT OF JUSTICE

BY: JORDAN ALAN DICKSON, ESQ.

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For the Plaintiff

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BY: ROBERT CHARLES SINGER, ESQ.

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And

LAW OFFICES OF PARKER ROY MacKAY

BY: PARKER ROY MacKAY, ESQ.

3110 Delaware Avenue

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For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent

MARILYN K. HALLIDAY, HSI Special Agent

KAREN A. CHAMPOUX, USA Paralegal

LAW CLERK: REBECCA FABIAN IZZO, ESQ.

COURT DEPUTY CLERK: COLLEEN M. DEMMA

COURT REPORTER: ANN MEISSNER SAWYER, FCRR, RPR, CRR
Robert H. Jackson Federal Courthouse
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* * * * *

(Excerpt commenced at 12:13 p.m.)

(Jury is present.)

J. D., having been duly called and sworn, testified as follows:

MR. TRIPI: May I inquire, Your Honor?

THE COURT: Yes, you may.

DIRECT EXAMINATION BY MR. TRIPI:

Q. Good afternoon, Mr. J.D.

A. Good afternoon.

Q. Mr. J.D., how old are you, sir?

A. 49.

Q. And did you grow up in the Buffalo area?

A. Yes, I did.

Q. What part of Buffalo?

A. West Side.

12:13PM 1 Q. How far have you gone in school?

12:13PM 2 A. Two years in college.

12:13PM 3 Q. And where did you graduate from high school?

12:13PM 4 A. Buffalo Traditional.

12:13PM 5 Q. And that's in the City of Buffalo?

12:13PM 6 A. Yes, sir.

12:13PM 7 Q. You said you got two years of college, where did you go?

12:13PM 8 A. ECC.

12:13PM 9 Q. What did you study?

12:13PM 10 A. General studies.

12:13PM 11 Q. And tell this jury, excuse me, a little bit about your

12:13PM 12 employment history. What kind of work do you do?

12:13PM 13 A. I do construction.

12:13PM 14 Q. And you've been doing that for a long time?

12:13PM 15 A. My whole life, yes.

12:13PM 16 Q. What type of construction work do you do?

12:13PM 17 A. Tile and concrete. Ceramic tile.

12:13PM 18 Q. Are you currently employed?

12:14PM 19 A. No.

12:14PM 20 Q. Now, Mr. J.D., during certain parts of your life, have

12:14PM 21 you struggled at times with drug use and addiction?

12:14PM 22 A. Yes, I have.

12:14PM 23 Q. What type of drugs have you struggled with at times?

12:14PM 24 A. Coke. Cocaine.

12:14PM 25 Q. And have you also used marijuana --

12:14PM 1 A. Yes.

12:14PM 2 Q. -- at various times?

12:14PM 3 A. Yes.

12:14PM 4 Q. Without getting into too much detail, was there an event

12:14PM 5 in your life that was sort of a catalyst that led you into

12:14PM 6 heavier drug use.

12:14PM 7 A. The death of my sister.

12:14PM 8 Q. And when was that?

12:14PM 9 A. 18 years ago.

12:14PM 10 Q. Roughly 2005?

12:14PM 11 A. I don't know the exact date.

12:14PM 12 Q. Okay. I think that math is right.

12:14PM 13 A. Okay. October 13th. Yes.

12:14PM 14 Q. 2005?

12:14PM 15 A. I believe so, yes.

12:14PM 16 Q. You said 18 years ago?

12:14PM 17 A. Yes.

12:14PM 18 Q. If my math is wrong, I apologize.

12:14PM 19 18 years ago, after that happened, did you start getting

12:14PM 20 in some trouble as a result of your drug use?

12:14PM 21 A. Yes.

12:15PM 22 Q. Did you meet some members of law enforcement around that

12:15PM 23 time?

12:15PM 24 A. Yes.

12:15PM 25 Q. What agency were those members of law enforcement with

12:15PM 1 that you initially met?

12:15PM 2 A. Buffalo Police.

12:15PM 3 Q. Do you remember their names?

12:15PM 4 A. Kevin -- I don't know their last names, I just remember

12:15PM 5 Kevin.

12:15PM 6 Q. Kevin? Was it a detective?

12:15PM 7 A. He was a narcotics officer.

12:15PM 8 Q. Okay. In any event, when you would get in trouble around

12:15PM 9 that time, did you start helping Buffalo Police with some

12:15PM 10 stuff?

12:15PM 11 A. Yes.

12:15PM 12 Q. And specifically that Officer Kevin?

12:15PM 13 A. Yes.

12:15PM 14 Q. Okay. How are you doing now with respect to drug use?

12:15PM 15 A. Excellent.

12:15PM 16 Q. Are you clean?

12:15PM 17 A. Yes.

12:15PM 18 Q. How long have you been clean?

12:15PM 19 A. Except for smoking marijuana.

12:15PM 20 Q. Okay. Did you smoke marijuana today?

12:15PM 21 A. No.

12:15PM 22 Q. When's the last time you smoked marijuana?

12:15PM 23 A. Two weeks ago.

12:15PM 24 Q. Okay.

12:15PM 25 A. I've been sick.

12:15PM 1 Q. Feeling better?

12:15PM 2 A. Not really.

12:15PM 3 Q. Well, you're not contagious right now, right?

12:16PM 4 A. No.

12:16PM 5 Q. Okay. Are you under the influence of any drugs as you

12:16PM 6 testify today?

12:16PM 7 A. No, sir.

12:16PM 8 Q. Okay. Do you know an individual named Joseph

12:16PM 9 Bongiovanni?

12:16PM 10 A. Yes.

12:16PM 11 Q. Do you see him in court today?

12:16PM 12 A. Yes.

12:16PM 13 Q. Can you please point to him and describe something he's

12:16PM 14 wearing?

12:16PM 15 A. He's wearing a black suit with a -- I can't describe the

12:16PM 16 color tie. Maroon? Maroon-colored tie.

12:16PM 17 **MR. TRIPI:** May the record reflect the witness

12:16PM 18 identified the defendant?

12:16PM 19 **THE COURT:** It does.

12:16PM 20 **BY MR. TRIPI:**

12:16PM 21 Q. How long have you known, him approximately?

12:16PM 22 A. A few years.

12:16PM 23 Q. What do you mean by "a few?"

12:16PM 24 A. Five years, maybe. Four or five years.

12:16PM 25 Q. Could it have been longer than that?

12:16PM 1 A. I don't know the exact time, but maybe, yes.

12:16PM 2 Q. Okay. How did you first meet him?

12:16PM 3 A. Through -- I think Buffalo Police introduced us.

12:16PM 4 Q. Was it that Kevin, that narcotics officer?

12:17PM 5 A. I believe so. I'm not positive who it was, but was

12:17PM 6 Buffalo who introduced me to them, the DEA.

12:17PM 7 Q. After you were first introduced to him, was there a place

12:17PM 8 you would see him more frequently?

12:17PM 9 A. Yes. Fitness Factory.

12:17PM 10 Q. Is that a gym?

12:17PM 11 A. Yes, sir.

12:17PM 12 **THE COURT:** Could you speak right into the

12:17PM 13 microphone, please?

12:17PM 14 **THE WITNESS:** Yes. Fitness Factory.

12:17PM 15 **BY MR. TRIPI:**

12:17PM 16 Q. And where is that gym located?

12:17PM 17 A. In Kenmore.

12:17PM 18 Q. Which street?

12:17PM 19 A. Delaware and Mang.

12:17PM 20 Q. When --

12:17PM 21 **THE COURT:** You said Delaware and Mang?

12:17PM 22 **THE WITNESS:** And Mang.

12:17PM 23 **THE COURT:** M-A-N-G.

12:17PM 24 **BY MR. TRIPI:**

12:17PM 25 Q. How frequently would you work out at that gym?

12:17PM 1 A. Almost every day.

12:17PM 2 Q. Is there someone that, when you would see the defendant,
12:17PM 3 you would see him working out with?

12:17PM 4 A. Lou Selva.

12:17PM 5 Q. As far as you know, were those two friends?

12:17PM 6 A. Yes.

12:17PM 7 Q. Now, at some point after you had met the defendant

12:18PM 8 through this Buffalo Police contact, did there come a point

12:18PM 9 in time when you had some information that you provided to a

12:18PM 10 member of Border Patrol?

12:18PM 11 A. Yes.

12:18PM 12 Q. How long after that information that you had that you

12:18PM 13 were gonna provide to Border Patrol, how long had you known

12:18PM 14 the defendant by that point?

12:18PM 15 A. Maybe a year or two.

12:18PM 16 Q. Okay. And with regard to information you had that you

12:19PM 17 thought might interest Border Patrol, did you have sort of

12:19PM 18 two meetings with Border Patrol?

12:19PM 19 A. Yes.

12:19PM 20 Q. Where was the first meeting?

12:19PM 21 A. In a marina down on Fuhrmann Boulevard.

12:19PM 22 Q. Would that be, like, the Small Boat Harbor area?

12:19PM 23 A. I believe so, yes.

12:19PM 24 Q. And do you remember the name of who you met with?

12:19PM 25 A. No.

12:19PM 1 Q. Does the name Larry Jay ring a bell?

12:19PM 2 A. Not really. I mean, I don't know --

12:19PM 3 Q. You just don't remember names?

12:19PM 4 A. Yeah.

12:19PM 5 Q. Okay. In any event, you had that first meeting, was

12:19PM 6 there a second meeting shortly after that?

12:19PM 7 A. Yes.

12:19PM 8 Q. Where was the second meeting?

12:19PM 9 A. At their office, off Colvin Boulevard. I don't know the

12:19PM 10 name of the street, the side street that it's off of.

12:19PM 11 Q. They have an office over there somewhere?

12:20PM 12 A. Yes.

12:20PM 13 Q. And just generally, did the information relate to

12:20PM 14 information that you believed Border Patrol would be

12:20PM 15 interested in?

12:20PM 16 A. Yes.

12:20PM 17 Q. Okay. Now, when that second meeting was set up, do you

12:20PM 18 remember discussing going to that meeting over the phone with

12:20PM 19 the Border Patrol agent?

12:20PM 20 A. Yes.

12:20PM 21 Q. Did you agree to meet with them at that address off

12:20PM 22 Colvin?

12:20PM 23 A. Yes, they came and picked me up.

12:20PM 24 Q. And then Border Patrol agents drove you there?

12:20PM 25 A. Yes.

12:20PM 1 Q. Now, after you made it to their office, did someone else
12:20PM 2 arrive?
12:20PM 3 A. Yes.
12:20PM 4 Q. Who else arrived?
12:20PM 5 A. Mr. Bongiovanni.
12:20PM 6 Q. Did you know he was gonna be there?
12:20PM 7 A. No.
12:20PM 8 Q. What was his demeanor when he walked into their office?
12:20PM 9 A. Not happy.
12:20PM 10 Q. Can you elaborate?
12:20PM 11 A. He was very upset.
12:21PM 12 Q. Did he say anything?
12:21PM 13 A. Not in so many words, no, he didn't.
12:21PM 14 Q. How do you know he was upset?
12:21PM 15 A. Oh, his demeanor was -- was very angry.
12:21PM 16 Q. Did he say something that he was angry?
12:21PM 17 A. After the -- after we walked out, yes.
12:21PM 18 Q. What did he say to you?
12:21PM 19 A. He was upset that I was basically cutting his throat.
12:21PM 20 Q. What do you mean by that?
12:21PM 21 A. Like, I was going above him to meet with these guys.
12:21PM 22 Q. Do you remember him saying something during the meeting
12:21PM 23 to the other agents or in your presence?
12:21PM 24 A. I do, but I don't remember what was said.
12:21PM 25 Q. Do you remember the tone or tenor of what he said?

12:21PM 1 A. Upset.

12:21PM 2 Q. Upset with you being there?

12:21PM 3 A. Yes.

12:21PM 4 Q. Was the meeting long or short?

12:22PM 5 A. I don't recall how long, it wasn't that long.

12:22PM 6 Q. By the time the meeting ended, did you ever get to the

12:22PM 7 substance of the information? Don't tell us what the

12:22PM 8 information you had was, but did you ever get to the point of

12:22PM 9 discussing the substance of the information that you wanted

12:22PM 10 to provide?

12:22PM 11 A. No.

12:22PM 12 Q. When you left, who did you leave with?

12:22PM 13 A. Mr. Bongiovanni.

12:22PM 14 Q. Did he drive you back home?

12:22PM 15 A. I believe so, yes.

12:22PM 16 Q. Because you had gotten there with the other agents?

12:22PM 17 A. Yep.

12:22PM 18 Q. Now, when you left with him, what did he say to you?

12:22PM 19 A. I don't remember exact words, but he wasn't happy.

12:22PM 20 Q. What did you mean by when you mentioned earlier you were

12:23PM 21 cutting his throat?

12:23PM 22 A. Like, going over his head to go to somebody else.

12:23PM 23 Q. Another law enforcement agency?

12:23PM 24 A. Yes.

12:23PM 25 Q. Is that what he was angry about?

12:23PM 1 A. I believe so, yes.

12:23PM 2 Q. Well, you were there. What was he angry about?

12:23PM 3 A. Well, that, yes.

12:23PM 4 Q. Did he ever pursue the information that you had that you
12:23PM 5 wanted to provide Border Patrol?

12:23PM 6 A. No.

12:23PM 7 **MR. SINGER:** Your Honor, late objection, but
12:23PM 8 speculation on the last question.

12:23PM 9 **THE COURT:** Well, he can only testify to his
12:23PM 10 knowledge, and that's what he testifying. So overruled.

12:23PM 11 **MR. SINGER:** Okay.

12:23PM 12 **BY MR. TRIPI:**

12:23PM 13 Q. Without getting into specifics, was the information you
12:23PM 14 had associated with any individuals who -- withdrawn.

12:23PM 15 Associated with a bar, individuals who attended a bar on
12:24PM 16 Hertel Avenue?

12:24PM 17 A. No.

12:24PM 18 Q. Not that you recall?

12:24PM 19 A. Not that I recall, no.

12:24PM 20 Q. Did the defendant ever debrief you on the information
12:24PM 21 that you wanted to provide Border Patrol?

12:24PM 22 A. No.

12:24PM 23 Q. Did he ever ask you to do anything to help investigate
12:24PM 24 the people you wanted to talk about?

12:24PM 25 A. No.

12:24PM 1 Q. Okay. Now, at some point, did you learn that the
12:24PM 2 defendant was getting married?

12:24PM 3 A. Yes.

12:24PM 4 Q. Did you learn stag tickets were available?

12:24PM 5 A. Yes.

12:24PM 6 Q. Now, at some point, were you signed up by the defendant
12:25PM 7 as an official confidential source for the DEA on two
12:25PM 8 different occasions, from February 18th, 2010 to May 2011,
12:25PM 9 and again from September 9th, 2016 to December 28th, 2016?

12:25PM 10 A. Yes.

12:25PM 11 Q. Did you acquire a stag ticket to go to the defendant's
12:25PM 12 stag party or bachelor party in Buffalo?

12:25PM 13 A. Yes.

12:25PM 14 Q. Where was the stag party or the bachelor party?

12:25PM 15 A. At Iron Works, I believe.

12:25PM 16 Q. Is that a bar down by where the Sabres play?

12:25PM 17 A. Yes.

12:25PM 18 Q. Do you remember who you went there with?

12:25PM 19 A. A few of my friends, yes.

12:25PM 20 Q. Who were they?

12:25PM 21 A. Mike Piazza, Nick Piazza.

12:25PM 22 Q. Anyone else?

12:25PM 23 A. Not offhand, that I recall.

12:26PM 24 Q. Were there people there other than the defendant that you
12:26PM 25 knew?

12:26PM 1 A. Yes.

12:26PM 2 Q. Who were some of the people that you knew that you saw
12:26PM 3 there?

12:26PM 4 A. My cousin, Sal Albert. Mike Masecchia. I mean, half the
12:26PM 5 neighborhood was there.

12:26PM 6 Q. Do you remember Wayne Anderson being there?

12:26PM 7 A. Yes.

12:26PM 8 Q. Do you remember Lou Selva being there?

12:26PM 9 A. That, I don't recall.

12:26PM 10 Q. I'm going to show you grand jury exhibit -- Government
12:26PM 11 Exhibit, excuse me, 3543A. I'm going to ask you to read
12:26PM 12 page 15 at the bottom beginning with line 23, to page 16 all
12:27PM 13 the way through line 22 on that page, okay?

12:27PM 14 A. Um-hum.

12:27PM 15 Q. So basically the bottom of 15 through page 16.

12:27PM 16 **MR. SINGER:** 3543A, 16 and 17.

12:27PM 17 **MR. TRIPI:** Sorry, 3543A, bottom of page 15 on to 16.

12:27PM 18 **MR. SINGER:** Thank you.

12:27PM 19 **MR. TRIPI:** You're welcome.

12:27PM 20 **BY MR. TRIPI:**

12:27PM 21 Q. Just read that to yourself, and when you're done, you can
12:27PM 22 put it down and look up. Okay?

12:27PM 23 A. Um-hum. Okay.

12:28PM 24 Q. Does that refresh your recollection as to some of the
12:28PM 25 people who were --

12:28PM 1 A. Yes.

12:28PM 2 Q. -- at the party?

12:28PM 3 A. Yes.

12:28PM 4 Q. Was Lou Selva there?

12:28PM 5 A. Yes.

12:28PM 6 Q. Who else was there?

12:28PM 7 A. Wayne Anderson, me, myself, Mike Piazza. Couple -- I

12:28PM 8 mean, cops. Is that what you're asking me?

12:28PM 9 Q. Do you remember a Joe who worked at a Tonawanda Police

12:28PM 10 Department?

12:28PM 11 A. Um-hum. Yes.

12:28PM 12 Q. You have to say "yes" or "no", okay?

12:28PM 13 A. Yes.

12:28PM 14 Q. Was a person named Nick Pugliese there?

12:28PM 15 A. Yes.

12:28PM 16 **THE COURT:** Mr. Tripi, it's about 12:30. Is this a

12:28PM 17 good time to break?

12:28PM 18 **MR. TRIPI:** I have, like, ten more minutes. It's up

12:28PM 19 to you, Judge.

12:28PM 20 **THE COURT:** No, let's break.

12:28PM 21 **MR. TRIPI:** Thank you.

12:28PM 22 **THE COURT:** We have other things that we have to do.

12:28PM 23 **MR. TRIPI:** Understood, Judge.

12:28PM 24 **THE COURT:** Folks, we are now going to take our lunch

12:29PM 25 break. So please remember my instructions about not

1 discussing any aspect of this case with anyone at all
2 including each other. Don't do research on your own. Don't
3 use tools of technology to research the case or to communicate
4 about the case. Don't read, or watch, or listen to any news,
5 radio, internet, or TV coverage of the case, if there is any,
6 while the trial is still in progress. And don't make up your
7 mind about anything until the evidence has been presented and
8 the case is submitted to you for deliberations.

9 As I said a few minutes ago, we'll be back at quarter
10 to 2. Thank you, all, very much.

11 (Jury excused at 12:29 p.m.)

12 **THE COURT:** Okay. Anything we need to put on the
13 record from the government?

14 **MR. TRIPI:** No, Your Honor.

15 **THE COURT:** From the defense.

16 **MR. SINGER:** No, Your Honor.

17 **THE COURT:** Okay. So let's come back at -- first of
18 all, Mr. Singer, will you tell Chief Judge Wolford that I'll
19 be waiting for her here when you're done with her.

20 **MR. SINGER:** I will do that, Judge.

21 **THE COURT:** And let's come back at close to 1:30, 20
22 to 2, and we'll do our little oral argument on the issue that
23 Mr. Cooper raised a few minutes ago. Okay?

24 **MR. TRIPI:** Sounds good. Thank you, Judge.

25 **THE COURT:** Thanks, folks.

12:30PM

1

THE CLERK: All rise.

12:30PM

2

(Off the record at 12:30 p.m.)

01:41PM

3

(Back on the record at 1:41 p.m.)

01:41PM

4

(Jury not present.)

01:58PM

5

(Proceedings unrelated from 1:42 p.m. to 1:58 p.m.)

01:58PM

6

(Jury seated at 1:58 p.m.)

01:59PM

7

THE COURT: Okay. The record will reflect that all

01:59PM

8

our jurors are present again.

01:59PM

9

I remind the witness that he's still under oath.

01:59PM

10

And, Mr. Tripi, you may continue.

01:59PM

11

MR. TRIPI: Thank you very much, Your Honor.

01:59PM

12

Mr. J.D., make sure to keep your voice up so that we

01:59PM

13

can hear you, okay?

01:59PM

14

THE WITNESS: Yes.

01:59PM

15

BY MR. TRIPI:

01:59PM

16

Q. Mr. J.D., I'd like to direct your attention back to that

01:59PM

17

stag party. I think you said it was at Buffalo Iron Works?

02:00PM

18

A. Yes.

02:00PM

19

Q. Okay. In connection with that stag party, do you know

02:00PM

20

the name of the woman that Mr. Bongiovanni was marrying?

02:00PM

21

A. Schuh. I don't know -- I don't know if it's Ashley Schuh

02:00PM

22

or -- I just know it's a Schuh.

02:00PM

23

Q. That's the maiden name?

02:00PM

24

A. The maiden name, yes.

02:00PM

25

Q. Okay. And now, is there something -- you talked about

02:00PM 1 Mike Masecchia being there --

02:00PM 2 A. Yes.

02:00PM 3 Q. -- do you remember that?

02:00PM 4 A. Yes.

02:00PM 5 Q. Can you tell the jury how it is that you remember that

02:00PM 6 Mike Masecchia was there that night?

02:00PM 7 A. Him and I got into an altercation.

02:00PM 8 Q. Describe it for the jury so they understands.

02:00PM 9 A. He was a teacher of mine in high school. And he came up

02:00PM 10 to me and told me -- he goes, oh, you got old.

02:00PM 11 And I said, oh, you were my teacher, you got old.

02:00PM 12 And he was a little drunk, and we got into an

02:00PM 13 altercation.

02:00PM 14 Q. Describe the altercation.

02:00PM 15 A. He pushed me, and he -- I pushed him back, and they broke

02:00PM 16 it up, and then I left.

02:00PM 17 Q. Is that how you remember for sure --

02:00PM 18 A. Oh, yeah.

02:00PM 19 Q. -- Mike Masecchia was there?

02:00PM 20 A. Yes.

02:01PM 21 Q. And where was he your teacher back in --

02:01PM 22 A. At Buffalo Traditional.

02:01PM 23 Q. Okay. So he's older than you?

02:01PM 24 A. Yes.

02:01PM 25 Q. Now, before the break, I had asked you about two periods

02:01PM 1 of time where you were signed up as a confidential source
02:01PM 2 with the DEA; do you remember that?

02:01PM 3 A. Yes.

02:01PM 4 Q. And just to recap, that was from February 18th, 2010 to
02:01PM 5 May of 2011; that was one period?

02:01PM 6 A. One period, yes.

02:01PM 7 Q. And was another period September 9th, 2016 to
02:01PM 8 December 28th, 2016?

02:01PM 9 A. Yes.

02:01PM 10 Q. Okay. And you signed all the appropriate documents to
02:01PM 11 become a confidential source, correct?

02:01PM 12 A. Yes.

02:01PM 13 Q. Who was your handling agent for those periods of time?

02:01PM 14 A. Joe Bongiovanni.

02:01PM 15 Q. Okay. Generally, were those situations where you were
02:01PM 16 being paid for your service?

02:01PM 17 A. Yes.

02:01PM 18 Q. When you would interact with Mr. Bongiovanni regarding
02:02PM 19 that, those situations, was he alone or was he with a partner
02:02PM 20 typically?

02:02PM 21 A. Typically with a partner.

02:02PM 22 Q. Do you remember who the partner was?

02:02PM 23 A. No.

02:02PM 24 Q. Were there times when you were alone?

02:02PM 25 A. Once, twice.

02:02PM 1 Q. Who was your point of contact with the DEA?

02:02PM 2 A. Joe Bongiovanni.

02:02PM 3 Q. Now, during one of those periods of time, was there an
02:02PM 4 occasion where the defendant brought you over to a meeting at
02:02PM 5 ATF; do you remember that?

02:02PM 6 A. I do. I don't remember -- yes, I do. Yes, he did.

02:02PM 7 Q. Okay. And was that you and the defendant going over to
02:02PM 8 ATF?

02:02PM 9 A. Yes.

02:02PM 10 Q. Now, did there come a point in time during that meeting
02:02PM 11 where one of the ATF personnel in the room asked a question
02:02PM 12 that related to Italian Organized Crime; do you remember
02:03PM 13 that?

02:03PM 14 A. Yes. Yes.

02:03PM 15 Q. When that question was asked, where was Mr. Bongiovanni
02:03PM 16 situated in relation to you?

02:03PM 17 A. I don't remember that. I know he was in the room.

02:03PM 18 Q. Do you remember -- do you remember him indicating
02:03PM 19 anything to you or signalling anything to you when that
02:03PM 20 question was asked?

02:03PM 21 A. No. I got -- I got upset about it.

02:03PM 22 **MR. TRIPI:** Just a moment. One moment, please,
02:04PM 23 Your Honor.

02:04PM 24 **THE COURT:** Okay.

02:05PM 25 **MR. TRIPI:** I'll withdraw the question.

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BY MR. TRIPI:

Q. When you were signed up with the DEA, with the defendant as your handler, did he ever ask you if you could buy marijuana or any other drugs from Mike Masecchia?

A. No.

Q. Did he -- move up, please, so you can speak into the mic.

A. No.

Q. Did he ever ask you if you could buy any other drugs from Lou Selva?

A. No.

Q. Did he ever ask you if you could buy any drugs from Wayne Anderson?

A. No.

Q. Did he ever ask you any questions or if you could buy drugs from Ron Serio?

A. No.

Q. Can you speak into the mic, please?

A. No.

Q. Did he ever ask you if you could buy any drugs from Tom Serio?

A. No.

Q. Did he ever ask you if you could buy any drugs from David Oddo?

A. No.

Q. Did he ever ask you if you could buy any drugs from

02:06PM 1 Anthony Gerace?

02:06PM 2 A. No.

02:06PM 3 Q. Did he ever ask you if you could buy any drugs from Peter

02:06PM 4 Gerace?

02:06PM 5 A. No.

02:06PM 6 Q. Did he ever ask you if you could buy any drugs from Mike

02:06PM 7 Sinatra?

02:06PM 8 A. No.

02:06PM 9 Q. Did he ever ask you if you could buy any drugs from

02:06PM 10 Joseph Tomasello?

02:06PM 11 A. No.

02:06PM 12 Q. Did he ever ask you if you could you buy any drugs from

02:06PM 13 Mike Buttitta.

02:06PM 14 A. No.

02:06PM 15 Q. Did he ever ask you if you could buy any drugs from Joe

02:06PM 16 Bella?

02:06PM 17 A. No.

02:06PM 18 Q. Do you know most of those people?

02:06PM 19 A. Yes.

02:06PM 20 Q. Did he ever ask you to could go to Pharaoh's and see if

02:06PM 21 you could buy drugs from anyone there --

02:06PM 22 A. No.

02:06PM 23 Q. -- at the strip club?

02:06PM 24 A. No.

02:07PM 25 Q. Did he ever ask you if you knew about any of those

02:07PM 1 individuals' activities between 2008 and 2017?

02:07PM 2 A. No.

02:07PM 3 **MR. TRIPI:** No further direct, Your Honor.

02:07PM 4 Your Honor, may we have just a moment so I can confer
02:07PM 5 with counsel before cross?

02:07PM 6 **THE COURT:** Sure.

02:07PM 7 **MR. TRIPI:** I apologize.

02:07PM 8 **THE COURT:** No, that's okay.

02:08PM 9 **MR. TRIPI:** Thank you, Judge. No further direct.
02:08PM 10 Sorry for the delay.

02:08PM 11
02:08PM 12 **CROSS-EXAMINATION BY MR. SINGER:**

02:08PM 13 Q. Hi, Mr. J.D.

02:08PM 14 A. How are you doing?

02:08PM 15 Q. Doing okay. Get out for lunch?

02:08PM 16 A. No.

02:08PM 17 Q. Oh. Neither did I.

02:08PM 18 So, as far as -- you stated on direct that you know
02:08PM 19 Mr. Bongiovanni; is that right?

02:08PM 20 A. Yes.

02:08PM 21 Q. And you first met him going back to the 2000s period; is
02:08PM 22 that right?

02:08PM 23 A. Yes.

02:08PM 24 Q. And so you mentioned that kind of in the middle of the
02:09PM 25 2000s, like 2005 or so, I think you had a death in your

02:09PM 1 family; is that right, sir?

02:09PM 2 A. Yes.

02:09PM 3 Q. And that's unfortunately when you started to get involved

02:09PM 4 with some narcotics activities at that point?

02:09PM 5 A. Yes.

02:09PM 6 Q. And, so, that's what led to you eventually getting

02:09PM 7 arrested, correct?

02:09PM 8 A. Um-hum.

02:09PM 9 Q. And you decided to cooperate with the Buffalo Police

02:09PM 10 Department at that time?

02:09PM 11 A. Um-hum.

02:09PM 12 Q. And there was a handler that you dealt with at the BPD, I

02:09PM 13 think his name is Kevin; is --

02:09PM 14 A. Yes.

02:09PM 15 Q. -- that right?

02:09PM 16 A. Yes.

02:09PM 17 Q. But you don't remember his last name --

02:09PM 18 A. I don't, no.

02:09PM 19 Q. -- or anything?

02:09PM 20 And you assisted at that point Buffalo Police Department

02:09PM 21 in a couple investigations they had into narcotics crimes?

02:09PM 22 A. Um-hum.

02:09PM 23 Q. You have to --

02:09PM 24 A. Yes. Sorry.

02:09PM 25 Q. No problem at all. So at that time that you start to

1 help out Buffalo Police Department, sometimes your handlers
2 might share information that you give them that occurs
3 outside the city limits; is that right?

4 A. Yes.

5 Q. Because they can't go and investigate those types of
6 crimes, right?

7 **MR. TRIPI:** Objection as to who can -- it's not in
8 his basis of understanding where they go.

9 **THE COURT:** Sustained.

10 **MR. SINGER:** Let me rephrase.

11 **BY MR. SINGER:**

12 Q. So when you're working for the Buffalo Police Department,
13 sir, you're helping them with crimes that occur in the City
14 of Buffalo; is that right?

15 A. Yes.

16 Q. And you've been an informant for a couple of years with
17 them; is that right?

18 A. Yes.

19 Q. Have you brought them information about things that are
20 happening outside the city, is it your understanding that
21 they couldn't investigate those types of crimes?

22 A. Um-hum. Yes.

23 Q. And so as a result of that, sometimes they might refer
24 you to a different police department?

25 A. Yes.

02:10PM 1 Q. And so, I know that you said in your direct testimony
02:10PM 2 that you had met Mr. Bongiovanni first through an
02:10PM 3 introduction through your Buffalo Police Department handler,
02:10PM 4 Kevin; is that right?
02:10PM 5 A. Yes.
02:10PM 6 Q. Do you recall, and I know it's a number of years ago, but
02:10PM 7 do you recall being introduced first to someone with the
02:11PM 8 Tonawanda Police Department?
02:11PM 9 A. Could have been, yes.
02:11PM 10 Q. Do you remember an Officer Bruce Schmitt?
02:11PM 11 A. To tell you the truth, I don't recall. I don't remember
02:11PM 12 the name.
02:11PM 13 Q. Okay. You testified on direct the first time you got
02:11PM 14 signed up as a confidential source with the DEA is 2010,
02:11PM 15 correct?
02:11PM 16 A. I believe so. I don't know the exact date.
02:11PM 17 Q. But it wasn't going back to 2005, correct?
02:11PM 18 A. No. No.
02:11PM 19 Q. And, so, I guess before you were signed up in that 2010
02:11PM 20 time period, you don't have any reason to disagree with me
02:11PM 21 about the 2010 time period, correct?
02:11PM 22 A. I'm sorry?
02:11PM 23 Q. You don't have any reason to disagree with me about the
02:11PM 24 2010 time period, correct?
02:11PM 25 A. No.

02:11PM 1 Q. Because I think you testified on direct, Mr. Tripi was
02:11PM 2 running through, you operated as a DEA source in 2010 to
02:11PM 3 2011?

02:11PM 4 A. Yes.

02:11PM 5 Q. And then again in 2016 for a shorter period of time?

02:11PM 6 A. I believe if that's the date, yes. I don't know the
02:11PM 7 exact dates, but yes.

02:11PM 8 Q. So, kind of getting back, so, you were helping out
02:12PM 9 Mr. Bongiovanni at some point in time after Buffalo Police
02:12PM 10 Department before 2010 in some capacity as a confidential
02:12PM 11 source, right?

02:12PM 12 A. Yes.

02:12PM 13 Q. But that wasn't as a DEA confidential source, right?

02:12PM 14 A. No. No.

02:12PM 15 Q. So, were you a Town of Tonawanda confidential source at
02:12PM 16 that point in time?

02:12PM 17 A. No. They just brought me from Buffalo because there were
02:12PM 18 things going on in Tonawanda. They went from Buffalo Police
02:12PM 19 Department, and then brought me and introduced me to
02:12PM 20 Tonawanda.

02:12PM 21 Q. So they introduced you to Tonawanda first?

02:12PM 22 A. Yes.

02:12PM 23 Q. Okay. And through Tonawanda is how you met
02:12PM 24 Mr. Bongiovanni, correct?

02:12PM 25 A. I don't remember how exactly I met Mr. Bongiovanni, what

02:12PM 1 agency, I just remember getting introduced to him.

02:12PM 2 Q. Okay. All right. I got you.

02:12PM 3 So, eventually, you start helping DEA officially as a
02:12PM 4 confidential source, correct?

02:12PM 5 A. Yes.

02:12PM 6 Q. Yes. And so you had two different time periods that you
02:13PM 7 worked with DEA as a confidential source, correct?

02:13PM 8 A. Yes.

02:13PM 9 Q. And you were getting paid money during those times that
02:13PM 10 you were a confidential source at DEA, correct?

02:13PM 11 A. Yes.

02:13PM 12 Q. And, Mr. Bongiovanni, the first time you were a
02:13PM 13 confidential source, so I want to talk about that earlier
02:13PM 14 time period, 2010, 2011, okay?

02:13PM 15 A. Okay.

02:13PM 16 Q. You were used in a couple different investigations in
02:13PM 17 that time period, correct?

02:13PM 18 A. Yes.

02:13PM 19 Q. You were used in the capacity to provide information,
02:13PM 20 correct?

02:13PM 21 A. Yes.

02:13PM 22 Q. You also were used in a capacity to make undercover buys;
02:13PM 23 is that right?

02:13PM 24 A. Yes.

02:13PM 25 Q. And those buys targeted a number of different people; is

02:13PM 1 that fair to say?

02:13PM 2 A. Yes.

02:13PM 3 Q. And sometimes it resulted in prosecutions of people?

02:13PM 4 A. I don't know what happened after -- after I was done with

02:13PM 5 my part. I had no idea.

02:13PM 6 Q. Okay. So during that time period, do you remember making

02:13PM 7 a purchase from Mike Piazza?

02:13PM 8 A. Yes.

02:13PM 9 Q. He was somebody that you knew, correct?

02:13PM 10 A. Yes.

02:13PM 11 Q. And the purchase that you made from Mike Piazza was for

02:14PM 12 some quantity of marijuana; is that right?

02:14PM 13 A. Yes.

02:14PM 14 Q. We're not talking about pounds and pounds of marijuana,

02:14PM 15 though, right?

02:14PM 16 A. No, I think it was an ounce of marijuana.

02:14PM 17 Q. Okay. So 1 ounce of marijuana?

02:14PM 18 A. Yes.

02:14PM 19 Q. And that was a controlled buy that you assisted with

02:14PM 20 Mr. Bongiovanni?

02:14PM 21 A. Yes.

02:14PM 22 Q. Okay. And then at some point in time in 2011, you're no

02:14PM 23 longer used as a source at DEA?

02:14PM 24 A. Yes.

02:14PM 25 Q. Okay. And then you sign up again in 2016; is that

02:14PM 1 correct?

02:14PM 2 A. Yes.

02:14PM 3 Q. And that was for a shorter period of time, correct?

02:14PM 4 A. Yes, sir.

02:14PM 5 Q. Only for a couple months?

02:14PM 6 A. Only a couple months.

02:14PM 7 Q. And you assisted with controlled buys from another

02:14PM 8 individual; is that right?

02:14PM 9 A. Yes.

02:14PM 10 Q. And I think you had one controlled buy, is that something

02:14PM 11 you remember?

02:14PM 12 A. I don't. I don't know what -- what are you talking

02:14PM 13 about?

02:14PM 14 Q. I guess what I'm getting at is so you made a controlled

02:14PM 15 purchase from that individual, do you remember that?

02:15PM 16 A. Okay. But I don't know what individual you're talking

02:15PM 17 about.

02:15PM 18 Q. Okay. Well, I want to stay away from saying any names on

02:15PM 19 the record --

02:15PM 20 A. Okay.

02:15PM 21 Q. -- because obviously --

02:15PM 22 A. Okay.

02:15PM 23 Q. -- you operated as a confidential source.

02:15PM 24 A. Yes.

02:15PM 25 Q. Okay. So I don't want to inform anybody about who you're

02:15PM 1 buying from, all right?

02:15PM 2 A. Okay.

02:15PM 3 Q. So do you remember making a buy in the 2016 time period?

02:15PM 4 A. Yes.

02:15PM 5 Q. Well, you tell me, I don't think what you remember.

02:15PM 6 A. Yes.

02:15PM 7 Q. You do remember making a buy in 2016?

02:15PM 8 A. Yes. I mean, I don't remember the exact date, but yes.

02:15PM 9 Q. Okay. So you do remember making a buy?

02:15PM 10 A. Yes.

02:15PM 11 Q. Don't remember the exact date --

02:15PM 12 A. No.

02:15PM 13 Q. -- but you do remember making a buy?

02:15PM 14 A. Yes.

02:15PM 15 Q. And then after you made that buy, do you know what

02:15PM 16 happened with the case at that point in time?

02:15PM 17 A. No.

02:15PM 18 Q. I know that you were deactivated for a shorter period of

02:15PM 19 time. Do you know what the reason was for your deactivation?

02:15PM 20 A. I don't remember.

02:16PM 21 Q. Okay. So, when you're a DEA source, you sat through that

02:16PM 22 twice, correct, in your life?

02:16PM 23 A. Yes.

02:16PM 24 Q. And so when you're a DEA source, fair to say that the DEA

02:16PM 25 sits you down and has you sign an agreement?

02:16PM 1 A. Yes.

02:16PM 2 Q. And that agreement has a number of rules that you have to
02:16PM 3 abide by, sir?

02:16PM 4 A. Yes.

02:16PM 5 Q. And then after you get an agreement signed, they also sit
02:16PM 6 you down to find out what information you know?

02:16PM 7 A. Yes.

02:16PM 8 Q. And the information you communicate to them helps them
02:16PM 9 understand who you might be able to help out with cases,
02:16PM 10 correct?

02:16PM 11 A. Yes.

02:16PM 12 Q. And, so, in that 2010 to 2011 time period, the first
02:16PM 13 time, or the 2016 time period, the second time, Mr. Tripi
02:16PM 14 asked you a number of questions about people that you may
02:16PM 15 know from North Buffalo?

02:16PM 16 A. Yes.

02:16PM 17 Q. I want to go through some of those people, okay?

02:16PM 18 So you mentioned that you knew Lou Selva; is that right?

02:16PM 19 A. Yes.

02:17PM 20 Q. He was someone who was not a contemporary of yours
02:17PM 21 though, right?

02:17PM 22 A. Excuse me?

02:17PM 23 Q. Sure. So he wasn't the same age as you, correct?

02:17PM 24 A. No. No.

02:17PM 25 Q. He was someone who is older than you?

02:17PM 1 A. Yes.

02:17PM 2 Q. But you knew him generally from North Buffalo?

02:17PM 3 A. Yes.

02:17PM 4 Q. And he was someone, I think, you met through your family

02:17PM 5 or something like that?

02:17PM 6 A. Family members, yeah.

02:17PM 7 Q. Yeah. How is that connection -- can you explain that a

02:17PM 8 little more?

02:17PM 9 A. My -- his dad used to own a rug place on Hertel Avenue.

02:17PM 10 And my uncle, we did flooring. So that's -- we knew each

02:17PM 11 other for a long time. We tiled his house. I worked at Lou

02:17PM 12 Selva's house.

02:17PM 13 Q. All right. So through business, you knew Mr. Selva?

02:17PM 14 A. Yes.

02:17PM 15 Q. And you also knew him from the Fitness Factory?

02:17PM 16 A. Yes.

02:17PM 17 Q. Right? That is a place that you worked out --

02:17PM 18 A. Um-hum.

02:17PM 19 Q. -- and that was a place that he worked out. I think

02:17PM 20 Mr. Bongiovanni worked out there, as well?

02:17PM 21 A. Yes.

02:17PM 22 Q. And there were a lot of people from North Buffalo who

02:17PM 23 worked out at --

02:17PM 24 A. Oh, yeah.

02:17PM 25 Q. -- the Fitness Factory, right?

02:17PM 1 A. Yes.

02:17PM 2 Q. There was a smorgasbord of people?

02:17PM 3 A. Yes.

02:17PM 4 Q. Do you ever remember seeing Mr. Tripi work out at Fitness
02:17PM 5 Factory?

02:17PM 6 A. Yes.

02:17PM 7 Q. Yes? So, it's kind of everyone from all walks of life,
02:17PM 8 correct?

02:17PM 9 A. Yes.

02:18PM 10 **MR. TRIPI:** I guess I would object to relevance, but
02:18PM 11 I guess it's out there, Judge.

02:18PM 12 **BY MR. SINGER:**

02:18PM 13 Q. So, bottom line, the Fitness Factory was a neighborhood
02:18PM 14 gym, right?

02:18PM 15 A. I'm sorry?

02:18PM 16 Q. The Fitness Factory was the neighborhood gym?

02:18PM 17 A. Yes. It was the only gym at that time.

02:18PM 18 Q. Understood. So, as far as Lou Selva was concerned, I
02:18PM 19 know you knew him through business or family connections, but
02:18PM 20 you knew him to be a user of marijuana; is that a fair
02:18PM 21 statement?

02:18PM 22 A. Yes.

02:18PM 23 Q. But you didn't know him to be a seller of marijuana?

02:18PM 24 A. No.

02:18PM 25 Q. Okay. You mentioned a person by the name of Mike

02:18PM 1 Masecchia; is that correct?

02:18PM 2 A. Yes.

02:18PM 3 Q. And Mike Masecchia, you said that he taught you in school

02:18PM 4 at some point?

02:18PM 5 A. He was my English teacher in school.

02:18PM 6 Q. Okay. And that's how far you first met him?

02:18PM 7 A. Yes.

02:18PM 8 Q. Did you know him after you graduated high school at all?

02:18PM 9 A. Yeah.

02:18PM 10 Q. And do you know him from the neighborhood?

02:18PM 11 A. No, just friends, just mutual friends.

02:18PM 12 Q. Okay. And I guess, like, you know, as far as your

02:19PM 13 friends are concerned, when you say "friends," it didn't seem

02:19PM 14 like what happened at the stag party that you two were very

02:19PM 15 close; is that a fair statement?

02:19PM 16 A. No. I just think that alcohol was involved, and I think,

02:19PM 17 you know, it just got out of hand.

02:19PM 18 Q. And would you guys hang out on a regular basis?

02:19PM 19 A. No. No.

02:19PM 20 Q. Okay. How often would you see Mike Masecchia before you

02:19PM 21 saw him at that stag party?

02:19PM 22 A. Once every couple years.

02:19PM 23 Q. Okay. So it was kind of just in passing?

02:19PM 24 A. Yes.

02:19PM 25 Q. All right. And he was not someone that you knew to be a

02:19PM 1 marijuana dealer, correct?

02:19PM 2 A. No.

02:19PM 3 Q. He was not someone you ever bought marijuana from, right?

02:19PM 4 A. No.

02:19PM 5 Q. You also mentioned a person by the name of David Oddo?

02:19PM 6 A. Yes.

02:19PM 7 Q. How do you know Mr. Oddo?

02:19PM 8 A. Mutual friends growing up on the West Side.

02:19PM 9 Q. Was he someone that you would hang out with on a regular

02:19PM 10 basis?

02:19PM 11 A. No.

02:19PM 12 Q. How often would you see Mr. Oddo at all?

02:19PM 13 A. Once a year maybe.

02:19PM 14 Q. And you didn't know Mr. Oddo being a marijuana dealer,

02:20PM 15 correct?

02:20PM 16 A. No.

02:20PM 17 Q. Never purchased marijuana from him?

02:20PM 18 A. Nope.

02:20PM 19 Q. How about Tom Serio? How did you know Tom Serio?

02:20PM 20 A. I did a job for him. I did some tile jobs for him.

02:20PM 21 Q. And he owned a business in the neighborhood, right?

02:20PM 22 A. Yes.

02:20PM 23 Q. It was a sub shop, I believe?

02:20PM 24 A. I think it was Mike's Big Mouth on Hertel.

02:20PM 25 Q. Okay. And you understand, based on your dealings with

02:20PM 1 Mr. Serio in the business capacity, that he also had a
02:20PM 2 brother Ron Serio; is that right?

02:20PM 3 A. Yes.

02:20PM 4 Q. Were you friends with Tom or Ron Serio?

02:20PM 5 A. Not really. Not friends. Just business acquaintances.

02:20PM 6 Q. How often would you see them?

02:20PM 7 A. Not at all. I mean, once every couple years.

02:20PM 8 Q. You didn't know Tom or Ron Serio to be marijuana dealers,
02:20PM 9 correct?

02:20PM 10 A. No.

02:20PM 11 Q. You mentioned a person named Joe Tomasello; is that
02:20PM 12 right?

02:20PM 13 A. Yes.

02:20PM 14 Q. And you subcontracted work from him or with him, I should
02:20PM 15 say probably?

02:20PM 16 A. I poured concrete with all his family, all the
02:20PM 17 Tomasellos, so that's how we know each other.

02:21PM 18 Q. Okay. Was it a friendship relationship, or a business
02:21PM 19 relationship?

02:21PM 20 A. Business.

02:21PM 21 Q. Okay. How often would you see Joe Tomasello?

02:21PM 22 A. Once every ten years.

02:21PM 23 Q. And you didn't know Mr. Tomasello to be a marijuana
02:21PM 24 dealer at all?

02:21PM 25 A. No.

02:21PM 1 Q. You mentioned a person by the name of Wayne Anderson; is
02:21PM 2 that right?

02:21PM 3 A. Yes.

02:21PM 4 Q. And I think you knew him through a rental apartment
02:21PM 5 arrangement you had; is that right?

02:21PM 6 A. He was my boss.

02:21PM 7 Q. Okay. He was your boss? So you see him a little more
02:21PM 8 regularly than some of other people we talked about?

02:21PM 9 A. Oh, yeah.

02:21PM 10 Q. How often would you see Wayne Anderson?

02:21PM 11 A. Every day. I lived around the block from him. He was
02:21PM 12 a -- he owned a tile company, and I was one of his tile
02:21PM 13 setters.

02:21PM 14 Q. Okay. How long did you work with Wayne Anderson for?

02:21PM 15 A. Year.

02:21PM 16 Q. And you never knew him to be a marijuana dealer; is that
02:21PM 17 right?

02:21PM 18 A. No.

02:21PM 19 Q. The government also mentioned Anthony Gerace?

02:22PM 20 A. Yes.

02:22PM 21 Q. How did you know Mr. Gerace?

02:22PM 22 A. Anthony Gerace was dating my brother's girlfriend's
02:22PM 23 sister. That's how I -- that's how I know him.

02:22PM 24 Q. A couple degrees of separation in that one?

02:22PM 25 A. That's how I know everybody, just like that.

02:22PM 1 Q. Just from the neighborhood kind of thing?

02:22PM 2 A. Yes.

02:22PM 3 Q. So Anthony Gerace, did you know him to be a marijuana

02:22PM 4 seller?

02:22PM 5 A. No.

02:22PM 6 Q. He had a brother Peter Gerace?

02:22PM 7 A. Yes.

02:22PM 8 Q. Did you know Peter Gerace at all?

02:22PM 9 A. No.

02:22PM 10 Q. Did you know him to be a marijuana seller?

02:22PM 11 A. No.

02:22PM 12 Q. Did you know him to be a drug seller at all?

02:22PM 13 A. I don't even know him.

02:22PM 14 Q. Have you ever been to Pharaoh's Gentlemen's Club?

02:22PM 15 A. Never.

02:22PM 16 Q. So is it a fair statement that you didn't mention any of

02:22PM 17 these people we just went through as potential people to buy

02:22PM 18 drugs from because you didn't know them to be drug dealers?

02:22PM 19 A. Yes.

02:22PM 20 Q. Okay. How about the stag? You said that you had

02:23PM 21 purchased a ticket to the stag; is that right?

02:23PM 22 A. Yes.

02:23PM 23 Q. Do you remember who you purchased the ticket from?

02:23PM 24 A. Lou Selva.

02:23PM 25 Q. And he was someone that you knew from the gym?

02:23PM 1 A. Yes.

02:23PM 2 Q. In that period of time, you kind of got to see him in the
02:23PM 3 gym; is that right?

02:23PM 4 A. Yeah.

02:23PM 5 Q. In that period of time, you saw him at the gym, you
02:23PM 6 weren't actively addicted to drugs at that point?

02:23PM 7 A. I was.

02:23PM 8 Q. You were?

02:23PM 9 A. I was.

02:23PM 10 Q. You were or not? I'm sorry.

02:23PM 11 A. I -- yes, I was.

02:23PM 12 Q. You were? Okay. And as far as, I guess, did

02:23PM 13 Mr. Bongiovanni ever offer you a ticket to the stag?

02:23PM 14 A. No.

02:23PM 15 Q. You got that through Mr. Selva; is that right?

02:23PM 16 A. Yes.

02:23PM 17 Q. And you mentioned that there were a lot of people from
02:23PM 18 the North Buffalo neighborhood at the stag; is that a fair
02:23PM 19 statement?

02:23PM 20 A. Um-hum. Yes.

02:23PM 21 Q. Correct? Thank you. More than you can potentially name
02:23PM 22 here today?

02:23PM 23 A. I don't recall any -- I mean. I can recall four or five
02:23PM 24 people there. It was a blurry night, let's just say. Let's
02:23PM 25 just say that.

02:23PM 1 Q. I understand. So, I mean, was this kind of a situation
02:24PM 2 like the Fitness Factory, like a lot of people were there
02:24PM 3 from all walks of life?

02:24PM 4 A. Yes.

02:24PM 5 **MR. SINGER:** Thank you. No further questions, Judge.

02:24PM 6 **MR. TRIPI:** Redirect, Your Honor?

02:24PM 7 **THE COURT:** Sure.

02:24PM 8

02:24PM 9 **REDIRECT EXAMINATION BY MR. TRIPI:**

02:24PM 10 Q. Now you weren't at any stag party of mine, you were at
02:24PM 11 his stag party, right?

02:24PM 12 A. Yes.

02:24PM 13 Q. All right. Let's be clear on that.

02:24PM 14 All right. So, you were asked some questions about Mike
02:24PM 15 Piazza a little bit ago --

02:24PM 16 A. Yes, sir.

02:24PM 17 Q. -- do you recall that?

02:24PM 18 Now, when you made that -- that I think you said it was
02:24PM 19 about an ounce buy --

02:24PM 20 A. Yes, sir.

02:24PM 21 Q. -- of marijuana?

02:24PM 22 A. Yep.

02:24PM 23 Q. Was Piazza a friend of yours?

02:24PM 24 A. Yes.

02:24PM 25 Q. As far as you knew, was he ever arrested for the ounce

02:24PM 1 buy marijuana that you made?

02:24PM 2 A. No.

02:24PM 3 Q. Is he still friends with you?

02:25PM 4 A. Yes.

02:25PM 5 Q. Did he ever know until just now that you made an ounce

02:25PM 6 buy of marijuana for the defendant?

02:25PM 7 A. No.

02:25PM 8 Q. Now at the time you made the buy, was Piazza dating one

02:25PM 9 of the Schuh sisters?

02:25PM 10 A. No.

02:25PM 11 Q. Did he eventually?

02:25PM 12 A. Excuse me?

02:25PM 13 Q. Did he date one of the Schuh sisters?

02:25PM 14 A. I think back when we were younger, younger-younger.

02:25PM 15 Q. And he was never arrested for the buy?

02:25PM 16 A. No.

02:25PM 17 Q. And you indicated it was one of the Schuhs that the

02:25PM 18 defendant was getting married to?

02:25PM 19 A. I couldn't be positive on which one of the sisters, but

02:25PM 20 yeah, it when we were younger, younger-younger.

02:25PM 21 Q. I'm asking you a different question. The stag party was

02:25PM 22 the defendant was marrying one of the Schuh sisters, correct?

02:25PM 23 A. Yes.

02:25PM 24 Q. Same Schuh -- that same Schuh family of sisters that

02:25PM 25 dated Piazza?

02:25PM 1 A. Yes.

02:25PM 2 Q. Okay. Now, you were asked some questions about Lou

02:26PM 3 Selva, right?

02:26PM 4 A. Yeah.

02:26PM 5 Q. And you indicated you did some work on his house?

02:26PM 6 A. Yes.

02:26PM 7 Q. Where was his house, do you remember?

02:26PM 8 A. Riverside, Black Rock area.

02:26PM 9 Q. Rebecca Parkway?

02:26PM 10 A. Rebecca Parkway, yes.

02:26PM 11 Q. What work did you do there?

02:26PM 12 A. I did some basement work for him. He had some mold.

02:26PM 13 Q. What was the problem in his basement?

02:26PM 14 A. There was a mold problem.

02:26PM 15 Q. And what was the genesis of the mold problem?

02:26PM 16 A. Water. I don't -- I don't -- it was just a mold problem,

02:26PM 17 I guess. I don't know why it was there. I mean --

02:26PM 18 Q. Okay. Did you testify in grand jury?

02:26PM 19 A. Yes.

02:26PM 20 Q. And have you talked to federal agents in this case?

02:26PM 21 A. No.

02:26PM 22 Q. You've had several interviews with federal agents,

02:26PM 23 correct?

02:26PM 24 A. Oh, yes. Yes.

02:26PM 25 Q. Did you tell them that you worked in Lou Selva's basement

02:26PM 1 cleaning up mold relating to a marijuana grow he had?

02:26PM 2 A. Yes.

02:26PM 3 Q. Why didn't you just say that just now?

02:26PM 4 A. I misunderstood your question.

02:27PM 5 Q. Are you nervous up there?

02:27PM 6 A. Yeah.

02:27PM 7 Q. Are you uncomfortable?

02:27PM 8 A. Yeah.

02:27PM 9 Q. Do you understand you've got to tell the truth, though,
02:27PM 10 okay?

02:27PM 11 A. Yes.

02:27PM 12 Q. So what was the cause of the mold problem in Lou Selva's
02:27PM 13 basement, Mr. J.D.?

02:27PM 14 A. From a marijuana grow.

02:27PM 15 Q. Did Mr. Singer ask you more questions about the people
02:27PM 16 that you know from North Buffalo like Lou Selva than the
02:27PM 17 defendant ever did?

02:27PM 18 A. Yes.

02:27PM 19 **MR. TRIPI:** No further questions.

02:27PM 20 **THE COURT:** Anything more, Mr. Singer?

02:27PM 21 **MR. SINGER:** One moment, Judge.

02:27PM 22

02:27PM 23 **RECROSS-EXAMINATION BY MR. SINGER:**

02:27PM 24 Q. Mr. J.D., did you ever tell Agent Bongiovanni about the
02:27PM 25 grow operation you suspected was in Lou Selva's basement?

02:27PM 1 A. Never.

02:28PM 2 **MR. SINGER:** Thank you.

02:28PM 3 **THE COURT:** Anything else Mr. Tripi?

02:28PM 4 **MR. TRIPI:** No, Your Honor, thank you.

02:28PM 5 **THE COURT:** You can step down, sir. Thank you.

02:28PM 6 (Witness excused at 2:28 p.m.)

7 (Excerpt concluded at 2:28 p.m.)

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11
12 **CERTIFICATE OF REPORTER**

13
14 In accordance with 28, U.S.C., 753(b), I
15 certify that these original notes are a true and correct
16 record of proceedings in the United States District Court for
17 the Western District of New York on March 5, 2024.

18
19 s/ Ann M. Sawyer

20 Ann M. Sawyer, FCRR, RPR, CRR
21 Official Court Reporter
22 U.S.D.C., W.D.N.Y.
23
24
25

TRANSCRIPT INDEX

EXCERPT - EXAMINATION OF J.D.

MARCH 5, 2024

W I T N E S S

P A G E

J. D.

2

DIRECT EXAMINATION BY MR. TRIPI:

2

CROSS-EXAMINATION BY MR. SINGER:

23

REDIRECT EXAMINATION BY MR. TRIPI:

41

RECROSS-EXAMINATION BY MR. SINGER:

44